

**ORIGINAL**

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3 IN THE UNITED STATES DISTRICT COURT  
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5 FOR THE NORTHERN MARIANA ISLANDS6  
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UNITED STATES OF AMERICA, ) CRIMINAL CASE NO. 03-00001-001  
Plaintiff, )  
vs. ) Garapan, Saipan  
VANN LE, ) Wednesday, August 10, 2005  
Defendant. )  
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REPORTER'S PARTIAL TRANSCRIPT OF  
DEFENDANT'S MOTION TO DISMISS FOR  
LACK OF JURISDICTION10  
11 BEFORE THE HONORABLE SENIOR CIRCUIT JUDGE  
A. WALLACE TOSHIMA FOR THE NINTH CIRCUIT COURT OF APPEALS  
SITTING AT UNITED STATES DISTRICT COURT  
FOR THE NORTHERN MARIANA ISLANDS**APPEARANCES:**14 For Plaintiff: Timothy Moran &  
15 Jamie Bowers  
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Clerk  
District Court

AUG 30 2005

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Telephone: (670) 235-4802  
Facsimile: (670) 235-4801For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

Present : Defendant Mr. Vann Le

SANAE N. SHMULL  
Official Court Reporter  
P. O. BOX 5128  
SAIPAN, MP 96950

1                   **GARAPAN, SAIPAN, WEDNESDAY, AUGUST 10, 2005 - 11:10 A.M.**

2                   **RULING**

3                   THE COURT: Yeah, but, you know, if it, if it goes to  
4 jurisdiction, I mean, you just can raise that at any time. Here's my  
5 ruling. As I said, you know, I think the motion is well crafted.  
6 It's well put together. It's a sound argument. I think it's a very  
7 close, close issue. But I'm denying the motion. But, you know, I  
8 guess, you know, I think the issue has to be decided some time. I  
9 think the issue is still open. I don't know how would, how I would  
10 rule if I were, you know, if I had this case in the Ninth Circuit.  
11 Let me put it that way. But here, I think given the history here and  
12 the fact that the issue has been raised before and Judge Munson has  
13 ruled on it before, this court has consistently, I think, taken the  
14 position that the Hobbs Act -- like other, other criminal laws that  
15 depend on the federal government's interstate commerce powers --  
16 applies in the Commonwealth. So I am going to stay with that  
17 position. But I encourage Mr. Long to pursue this.

18                   I think it's, you know, it's an important issue. It may  
19 have to, someday, has to be decided by the Supreme Court because if  
20 you're right, Mr. Long, that the Hobbs Act doesn't apply here,  
21 that -- and the reasoning would be because, as your motion explains,  
22 the Interstate Commerce Act is not included as one of the provisions

of the Constitution that are, that apply to the Commonwealth. If  
that's true, you know, then the whole host of federal criminal laws,  
I think, including all the drug laws and including, you know, fraud  
laws and a lot of other statutes, I think, would not apply in the  
Commonwealth either. So, I mean, those the possible -- all I'm  
saying is those are the possible ramifications of this motion. So,  
but I'm not reaching those today. I'm just saying, you know, it's a  
well, it's a well, put together motion. And I, you know, some day,  
it may succeed. But for now sitting as a judge of this court, I deny  
the motion.

MR. LONG: Yes, Your Honor. And just for the record, to  
clarify is that, we're limiting this motion to federal statutes that  
have specifically has that jurisdictional hook. I understand --

THE COURT: I understand that.

MR. LONG: -- that you --

THE COURT: I understand that but nevertheless, you can't  
ignore the ramifications of, you know, what that, what the ruling  
would be, you know, based on. But I appreciate that. All right.

MR. LONG: Thank you, Your Honor.

THE COURT: But for now, the motion is denied. Okay? So  
then this case is in recess until next Tuesday morning at 9:00 a.m.,  
all right, and it'll be Judge Munson here, I assume. Thank you. (**END**

**OF RULING)**

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2 COMMONWEALTH OF THE )  
3 NORTHERN MARIANA ISLANDS ) ss.  
4 SAIPAN, MP )  
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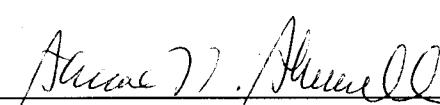
8 I, SANAE N. SHMULL, Official Court Reporter for the  
9 United States District Court for the Northern Mariana Islands, do  
10 hereby certify:

11 That the foregoing RULING on defendant's Motion to Dismiss  
12 for Lack of Jurisdiction in Criminal Case No. 03-00001, *United States*  
13 *of America v. Vann Le*, consisting 3 pages, was taken down by me  
14 stenographically with a back-up tape recording device at the time and  
15 place indicated herein.

16 That the foregoing transcript is a true and correct  
17 record of the proceeding transcribed by me to the best of my ability.

18 I further certify that I am not interested in the  
19 events of the action.

20 IN WITNESS WHEREOF, I have subscribed my name and  
21 signature this 27th day of August 2005.

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SANAE N. SHMULL  
Official Court Reporter